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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,688	05/17/2000	Anthony G. Picardo	10001826.1	8758

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EXAMINER

BOCKELMAN, MARK

ART UNIT PAPER NUMBER

3762

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/574,688

Applicant(s)

PICARDO ET AL.

Examiner

Mark W. Bockelman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-12 and 17-40 is/are pending in the application.
- 4a) Of the above claim(s) 33-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12 and 17-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-7, 10-12 and 17-32 in the reply filed on 4-7-2003 is acknowledged. The examiner's subsequent restriction mailed 6-26-2003 has been vacated and claims 1-7, 10-12 and 17-32 will be examined.

Claims 33-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention being, there no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4-7-2003.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 17-32, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Endo et al. USPN 4,902,244, Otsubo USPN 4,811,002 or Hamai et al USPN 5,588,873.

Each of the reference show a conductor wire with a connector shell having bar code windows in the shell housing considered to be light altering means that may be read by a barcode scanning device. Applicant's intended use of providing information to a defibrillation stimulator is given little patentable weight. The bar code member of each of the references is capable of conveying whatever information is desired depending upon how it is read by the barcode scanner and analyzer, elements that are not claimed.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Powers et al USPN 6,360,120. Powers shows a set of electrode paddles with wires conductors extending to to a shell housing (figure 2c) with male conductors pins therein. The examiner considers the shell housing to have means for altering light, namely a solid wall that is formed around the conductor pins that is

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capable of blocking the transmission of light therethrough. Such a solid wall light altering means could potentially indicate the type of electrode pads being connected. Such as in applicant's specification, wherein windows transmitting light could provide a binary code, a solid wall could indicate binary 01, with a single window indicating binary 11 etc. Thus, the solid wall of Powers et al meets the "means for altering light" limitation. Powers et al teach that his connector may be a twelve electrode monitoring lead (column 2 lines 23-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12 and 17-27, 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen et al. USPN 5,441,50 in view of Bass, Sr et al. USPN 5,222,164. Olsen et al teach a defibrillation system with an electrode pad identifying system that includes a connector (figure 5) and circuitry (figure 6) for identifying the pad through the connector port. The device includes a front end circuit (column 1, line13) for detecting ecg's and synchronizing the shock with the ecg i.e. detecting and processing a shockable condition and delivering a shock through the pads. Applicant differs from Olsen et al in providing a light altering

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means as a device for providing identification of the pad member. Bass, Sr et al. teaches a similar device for identifying a connector using a light altering system to detect the type of connection made. A electrical circuit is complete during connection by joining transmission members 21 and 25a and using the length of the connector portion 12A to alter light emitted and received (34, 36) in the female housing 30. In view of the related disclosures for identifying devices for a electrical connector, it would have been obvious to one of ordinary skill in the art upon reading the Olsen and Bass disclosures to have substituted the light altering identifying means of Bass for the circuit identification portion means of Olsen to perform the same function of identifying electrical pads and for reducing circuitry on pads, would have been obvious to one of ordinary skill in the art given the teachings of Olsen and Bass together. Placing the light altering connection in the connector 70 of Olsen would permit disconnection from the defibrillator as well as the pads at second connection 74. The steps in claim 17 follow logically from the Olsen disclosure as modified by Bass in that the defibrillator would be inherent or obvious to turn on as well as the connection of the pads to the patient. Since Olsen has a default disconnect reading wherein no paddles are connected and the defibrillating pulse generating circuitry is disengaged, then connection of the paddles would alter the operation of the device to prepare it for shocking. Placing electrode pads in socket additionally will alter a patient care instruction, namely providing a new instruction of when the device is ready for treating the patient via a light indicator 62. The indication member 12A of Bass may be coded with various opacity or using apertures

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((column 5 lines 35-40). Various voltage levels are determined by the defibrillator (column 2 lines 44-45) for application to specific electrodes and thus what ever the electrodes small (for infant) or type as in applicant's claims would have been an obvious choice of electrode for the Olsen device with appropriate voltage identification prescribed. It would have been obvious to administer CPR especially if the defibrillator is not working no electrode identification is received.

Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,441,50 in view of Bass, Sr et al. USPN 5,222,164 as applied to claims 17-27, 31-32 above, and further in view of Nova et al. USPN 6,334,070. To have provide directions indicating the proper method of CPR on the defibrillator of Olsen et al would have been obvious in view of Nova et al for the emergency treatment of patients.

Response to Arguments

Applicant's arguments with respect to claims 1-7, 10-12, 17-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W. Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 10:00 to 6:30.

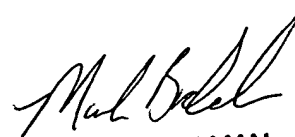
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272 -6996. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

August 3, 2005



MARK BOCKELMAN
DEPUTY EXAMINER